

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
DR. ANDREA WESLEY; DR. JOSEPH
WESLEY; ROBERT EVANS; GARY
FREDERICKS; PAMELA HAMNER
BARBARA FINN; OTHO BARNES;
SHIRLINDA ROBERTSON; SANDRA
SMITH; DEBORAH HULITT; RODESTA
TUMBLIN; DR. KIA JONES; MARCELEAN ARRINGTON;
VICTORIA ROBERTSON**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:22-cv-734-DPJ-HSO-LHS

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, *in his
official capacity as Governor of Mississippi;*
LYNN FITCH, *in her official capacity as
Attorney General of Mississippi;* MICHAEL
WATSON, *in his official capacity as Secretary
of State of Mississippi***

DEFENDANTS

and

**MISSISSIPPI STATE REPUBLICAN
EXECUTIVE COMMITTEE**

DEFENDANT-INTERVENOR

JOINT STIPULATION AS TO FIRST AMENDMENT ASSOCIATIONAL PRIVILEGE

COME NOW THE PARTIES, Plaintiffs, Mississippi Conference of the National Association for the Advancement of Colored People (“MS NAACP”), Dr. Andrea Wesley, Dr. Joseph Wesley, Robert Evans, Gary Fredericks, Pamela Hamner, Barbara Finn, Otho Barnes, Shirlinda Robertson, Sandra Smith, Deborah Hulitt, Rodesta Tumblin, Dr. Kia Jones, Marcelean Arrington, and Victoria Robertson (the “Plaintiffs”), Defendants, State Board of Election Commissioners, Tate Reeves, *in his official capacity as Governor of Mississippi*, Lynn Fitch, *in her official capacity as Attorney General of Mississippi*, and Michael Watson, *in his official capacity as Secretary of State of Mississippi* (the “Defendants”), and the Mississippi State

Republican Executive Committee (“Defendant-Intervenor”), and stipulate and agree as follows with respect to Plaintiffs’ invocation of the First Amendment Associational privilege:

1. In response to certain discovery requests served by the Defendants, certain of the Plaintiffs, including MS NAACP and five individual plaintiffs, withheld otherwise discoverable documents on the grounds that those documents are shielded from production and protected under the First Amendment Associational privilege.

2. After conferring in good faith, the parties have been unable to agree on the scope and application of the First Amendment Associational privilege as applied in this instance. Primarily, Defendants contend that certain categories of documents *are not covered* by the First Amendment Associational privilege, including (1) *all* internal communications and documents shared by MS NAACP with its members, (2) *all* communications and documents shared by and between MS NAACP members, and (3) *all* communications and documents between MS NAACP and certain third-parties. Plaintiffs contend that documents fitting these descriptions *are covered* by the First Amendment Associational privilege.

3. In order to avoid another discovery dispute and to further facilitate the orderly progression towards the trial of this matter, the Defendants have agreed to withdraw their pending motion to compel the Plaintiffs to produce these documents [Dkt. #118] with the express understanding that the Defendants do not concede that the First Amendment Associational privilege applies to the categories of documents set forth in paragraph 2, *supra*.

4. The parties hereby stipulate and agree that (1) no ruling or judgment has been rendered or entered on this issue in this case; (2) the compromise recited hereinabove has and shall have no precedential effect on future cases in which the same or other parties might invoke the

First Amendment Associational privilege; and (3) all parties to this stipulation hereby fully reserve, and do not waive, their respective positions on this issue as set forth hereinabove.

This the 5th day of December, 2023.

/s/ Joshua F. Tom

Joshua F. Tom (MSB No. 105392)

ACLU OF MISSISSIPPI

Robert B. McDuff (MSB No. 2532)

MISSISSIPPI CENTER FOR JUSTICE

Carroll Rhodes (MSB No. 5314)

LAW OFFICES OF CARROLL RHODES

Ari J. Sivitzky, pro hac vice

Kelsey Miller, pro hac vice

Ming Cheung, pro hac vice

Patricia Yan, pro hac vice

ACLU FOUNDATION

John P. Lavelle, Jr., pro hac vice

Drew C. Jordan, pro hac vice

MORGAN, LEWIS & BOCKIUS

Ezra D. Rosenberg, pro hac vice

Jennifer Nwachukwu, pro hac vice

David Rollins-Boyd, pro hac vice

**LAWYERS COMMITTEE FOR CIVIL
RIGHTS UNDER LAW**

Counsel for Plaintiffs

This the 5th day of December, 2023.

/s/ P. Ryan Beckett

Rex M. Shannon III (MB #102974)

STATE OF MISSISSIPPI

OFFICE OF THE ATTORNEY GENERAL

CIVIL LITIGATION DIVISION

Tommie S. Cardin (MB #5863)

P. Ryan Beckett (MB #99524)

B. Parker Berry (MB #104251)

BUTLER SNOW LLP

Counsel for Defendants

This the 5th day of December, 2023.

/s/ Michael B. Wallace

Michael B. Wallace (MB #6904)

Charles E. Cowan (MB #104478)

WISE CARTER CHILD & CARAWAY, P.A.

Counsel for Defendant-Intervenor

Mississippi State Republican Executive Committee

CERTIFICATE OF SERVICE

I, P. Ryan Beckett, one of the attorneys for the Defendants, do hereby certify that I have this day filed the above and foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

This the 5th day of December, 2023.

/s/ P. Ryan Beckett

P. Ryan Beckett

84814068.v1